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HUB LAW OFFICES

9 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF MARIN

13 CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California not-)
14 for-profit religious corporation;)

15 Plaintiff,)

16 vs.)

17 GERALD ARMSTRONG; MICHAEL WALTON;)
THE GERALD ARMSTRONG CORPORATION, a)
18 California for-profit corporation;)
Does 1 through 100, inclusive,)

19 Defendants.)

CASE NO. 157-680

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS
FROM DEFENDANT GERALD
ARMSTRONG**

DATE: January 14, 1994
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: None
DISCOVERY CUT OFF: None
MOTION CUT OFF: None

22
23 **I. INTRODUCTION**

24 Plaintiff Church of Scientology International ("the
25 Church") has brought this litigation as a necessary step to
26 preserve its ability to effect recovery from Gerald Armstrong upon
27 receiving an award of liquidated, general, and punitive damages in
28 the two cases which it has pending against these defendants in the

1 Superior Court for the County of Los Angeles, No. BC 052395 and BC
2 084642. Armstrong has sought to avoid the consequences of the
3 liquidated damages clause in the 1986 Settlement Agreement and of
4 his numerous violations of that Agreement by hiding his assets.
5 To that end, he transferred his real property, a house on Fawn
6 Drive in Marin County, to his friend and attorney, defendant
7 Michael Walton. This transfer was made without consideration,
8 although the house and land were apparently worth in excess of
9 \$397,500. Further, Armstrong has claimed in deposition to have
10 substantial assets in the form of manuscripts and artistic works.
11 At least some of these assets were transferred to Armstrong's
12 alter ego, defendant Gerald Armstrong Corporation.

13 The Church has sought production of documents relating to
14 the existence and conveyance of Armstrong's assets. These requests
15 for production have been met with meritless objections and a
16 refusal to engage in a meaningful meet-and-confer process.
17 Consequently the Church has brought this motion in accordance with
18 C.C.P. §2030(1) to compel the production of the relevant
19 documents.

20 II. STATEMENT OF FACTS

21 The Church served Armstrong with its First Request for
22 Production of Documents [Exhibit A to Declaration of Andrew
23 Wilson], on August 9, 1993. Armstrong's responses and/or
24 objections were due on September 3, 1993, and the document
25 production was due on September 13. Armstrong did not produce any
26 documents at all. Instead, after obtaining an extension of time
27 in which to respond, he served responses consisting completely of
28 objections, on October 4, 1993 [Exhibit B to Declaration of Andrew

1 Wilson]. Counsel for the Church immediately contacted Armstrong's
2 counsel, and attempted to meet and confer with him concerning the
3 inadequacy of the responses. [Exhibit C to Declaration of Andrew
4 Wilson, ¶__.] Armstrong's counsel refused to discuss the
5 responses, and insisted that Mr. Wilson "write him a letter."
6 [Id.] Mr. Wilson did so, detailing the reasons why the objections
7 were not adequate. [Id.] Mr. Greene never responded to Mr.
8 Wilson's letter, and has produced no documents.

9 The requests, ten in all, seek documents which are directly
10 relevant to the Church's fraudulent conveyance action. They ask
11 for documents which evidence transfers of assets, whether tangible
12 or intangible, between Armstrong and defendants Walton and the
13 Gerald Armstrong Corporation. On August 5, 1993, Armstrong
14 boasted on national television that he had developed, and was
15 trying to sell, a screenplay. The requests thus seek production
16 of documents relating to the creation, transfer, sale or
17 exploitation of this or other literary and artistic assets. These
18 matters are directly relevant to the issue of Armstrong's assets
19 and whether and how he may be attempting to transfer them out of
20 his apparent direct control to avoid obligations owed to the
21 Church.

22 In response to each request, Armstrong has asserted a
23 series of boilerplate objections, claiming that the request
24 violates the right to privacy, freedom of religion, speech, press
25 and association; is not calculated to lead to the discovery of
26 admissible evidence and is irrelevant; violates an unspecified
27 "order" of the Los Angeles Superior Court; and is ambiguous,
28 overbroad, vague, burdensome, and "harassive."

1 III. ARGUMENT

2 A. The Requests Do Not Violate Any Privacy Rights

3 Armstrong has objected to each of the Church's requests by
4 claiming that the requests "violate the right to privacy."
5 Privacy rights are not absolute. The courts must balance the
6 privacy rights of persons subject to discovery against the right
7 of civil litigants to discover relevant facts and the public
8 interest in obtaining just results in litigation. Vinson v.
9 Superior Court (1987) 43 Cal.3d 833, 842, 239 Cal.Rptr. 292, 299;
10 Valley Bank v. Superior Court (1975) 15 Cal.3d 652, 125 Cal.Rptr.
11 553, 555. Even very personal and confidential information may
12 have to be disclosed if "essential to a fair determination of the
13 lawsuit." Morales v. Superior Court (1979) 99 Cal.App.3d 283, 160
14 Cal.Rptr. 194.

15 Armstrong does not identify whose "right to privacy" is
16 allegedly violated by the requests. Even assuming arguendo that
17 Armstrong is attempting to assert his own privacy interests, the
18 objection is simply irrelevant to the Church's requests. The
19 Church seeks documents relating to Armstrong's creation, sale,
20 exploitation and transfer of assets: the very subject matter of
21 this litigation [See Exhibit A to Declaration of Andrew Wilson,
22 Requests 1, 2, 9, 10].

23 Further, Armstrong can hardly claim a "privacy" interest in
24 a document which he displayed on national television. [Ex. D to
25 Wilson Dec., Transcript.] Requests 3 - 8 all seek documents
26 relating to the asset which Armstrong attempted to peddle on the
27 television show, Entertainment Tonight.

28 / / /

1 **B. First Amendment Privileges Are Not Applicable To the**
2 **Requested Documents**

3 Next, Armstrong claims that the requests violate a whole
4 panoply of his First Amendment rights: the rights to freedom of
5 religion, speech, association and press. Armstrong has offered no
6 explanation as to how the Church's reasonable requests for
7 documents relating to his assets could possibly violate any of
8 Armstrong's First Amendment rights. This action is directed at
9 Armstrong's conveyance of assets so as to essentially render
10 himself judgment proof, while at the same time engaging in what he
11 admits (and in fact boasts of) were breaches of the December, 1986
12 settlement agreement with the Church. The Church has been unable
13 to find any authority which even remotely suggests that Armstrong
14 may refuse to produce documents relative to his assets in a
15 fraudulent conveyance action by claiming that such production
16 would somehow violate his right to freely practice his religion,
17 or associate with persons of his choice. The Church's request
18 that Armstrong supply such authority, if any exists, was met with
19 silence. [Wilson Dec., Paragraph 2]

20 **C. All Of The Requests Seek Relevant Documents**

21 C.C.P. §2017(a) provides that a party may obtain discovery

22 [R]egarding any matter, not privileged, that is
23 relevant to the subject matter involved in the pending
24 action ... if the matter either is itself admissible in
25 evidence or appears reasonably calculated to lead to the
26 discovery of admissible evidence. Discovery may relate to
27 the claim or defense of the party seeking discovery or any
28 other party to the action.

26 The discovery provisions are interpreted liberally, with
27 all doubt resolved in favor of permitting discovery. Colonial
28 Life & Acc. Ins. Co. v. Superior Court (1982) 31 Cal.3d 785, 790,

1 183 Cal.Rptr. 810, 813, fn. 7-8; Greyhound Corp. v. Superior
2 Court, 364 P.2d 266, 15 Cal.Rptr. 90; Davies v. Superior Court, 36
3 Cal.3d 291, 204 Cal.Rptr. 154.

4 Here, in a fraudulent conveyance action, the Church has
5 requested that Armstrong produce documents relating to his assets:
6 tangible, intangible, literary, and artistic; and the Church has
7 requested that Armstrong produce documents which relate to
8 transfers of that property to Armstrong's co-defendants. It is
9 difficult to imagine material which is more relevant to a
10 fraudulent conveyance action, or more likely to lead to the
11 discovery of admissible evidence, than these initial ten requests.

12 **D. The Requests Are Specific And Clear**

13 Armstrong also objects that the requests are "burdensome,"
14 "vague," "harassive," and "ambiguous." During meet and confer,
15 the Church asked Armstrong's counsel to identify, for each of the
16 ten requests, what he considered to be vague or unclear, and what
17 about the request presented an undue burden. Mr. Greene did not
18 respond, so the Church is left to wonder what it is about these
19 clear, specifically drawn requests that Armstrong and his counsel
20 do not understand. Each of them asks for documents concerning
21 assets which Armstrong has identified, and which Armstrong has or
22 may have conveyed to others. This is not a "burdensome" request
23 when made in the context of fraudulent conveyance litigation.

24 **E. The Requests Are Not Prohibited By Any Other Court Order**

25 Finally, Armstrong objects by claiming that an order exists
26 which prohibits discovery in this action. In fact, this Court has
27 already denied not one, but two, attempts by Armstrong to stay
28 discovery herein. The cases pending in Los Angeles are, indeed,

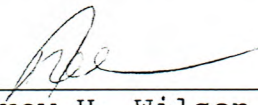
1 stayed while the Court of Appeal considers Armstrong's appeal of
2 the preliminary injunction which that Court granted to the Church.
3 Discovery there, however, has nothing to do with discovery here.
4 Nothing in any order of the Los Angeles court can reasonably be
5 construed to prohibit, stay or interfere with discovery here; at
6 most, the stay in those cases has put discovery therein on hold.
7 Armstrong's attempt to parlay that stay into an excuse to refuse
8 to produce documents relevant to this action is frivolous.

9 **IV. CONCLUSION**

10 The Church has requested that Armstrong produce documents
11 which concern the creation, sale, exploitation and transfer of
12 assets: documents which directly relate to the claims alleged in
13 the Complaint herein. In response, Armstrong has interjected a
14 lengthy series of inappropriate objections, refused to meet and
15 confer, and refused to produce a single document. Armstrong
16 should be ordered to produce all responsive documents forthwith.

17 Dated: November 23, 1993

Respectfully submitted,
WILSON, RYAN & CAMPILONGO

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20 BY: 
Andrew H. Wilson

21 BOWLES & MOXON
22 Laurie J. Bartilson

23 Attorneys for PLAINTIFF
24 CHURCH OF SCIENTOLOGY
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